

News Release



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U.S. Labor Department Settlement Restores \$12,500 To Florida Company's 401(k) Plan

ATLANTA – The former chief executive officer and 401(k) plan trustee of defunct Innopet Brands Corporation, Ft. Lauderdale, Fla., have agreed to restore \$12,500 as restitution for their failure to forward employee contributions to the company's 401(k).

Under the settlement, Marc and Linda Duke also are permanently barred from service to any employee benefit plan governed by the Employee Retirement Income Security Act (ERISA) in the future and agreed to honor their debt to the plan in any future bankruptcy proceedings.

"The Labor Department will aggressively enforce the law to protect the retirement funds of this nation's hardworking men and women," said Howard Marsh, director of the Employee Benefits Security Administration's (EBSA) Atlanta regional office. "Our legal action will ensure that these workers receive future benefits owed to them."

The suit alleges that CEO Marc Duke and trustee Linda Duke violated ERISA when they failed to remit contributions withheld from employees' paychecks to the 401(k) from April through July 1998. The money allegedly was used to pay expenses of the financially distressed company and the Dukes.

The 401(k) plan covered as many as 25 participants and had \$4,150.97 in assets as of Nov. 24, 2004.

Employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to correct ERISA violations but allows them to avoid EBSA enforcement actions and civil penalties as well as any applicable excise taxes. For more information about the VFCP, see www.dol.gov/ebsa.

The suit and settlement, filed in the federal district court in Ft. Lauderdale, resulted from an investigation conducted by EBSA's Atlanta regional office. In fiscal year 2004, EBSA achieved record monetary results totaling \$3.1 billion for retirement, 401(k), health and other programs. Employers and workers can reach EBSA's Atlanta office at (404) 562-2156 or through the agency's toll-free number at **1-866-444-EBSA (3272)**, for help with problems relating to private-sector retirement and health plans.

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(Chao v. Duke)
Civil Action No. 04-60001-Civ-Marra

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